

**TOWN OF EAST HAMPTON  
AGENDA REPORT**

Town Manager Approval: \_\_\_\_\_

*JOK*

Item to be presented by: Jeffery J. O'Keefe

DATE: February 9, 2010

SUBJECT: Discussion on possible "nuisance" ordinance

DEPARTMENT: Town Managers Office

---

**RECOMMENDED ACTION:**

Receive report and discuss possible considerations for adopting a public "nuisance" ordinance.

**BACKGROUND**

At the June 9, 2009 Council meeting a lengthy discussion took place about a possible noise ordinance and noise control or abatement options. This discussion has been ongoing and has now carried into 2010.

After much investigation the complexity involved in the technical training and use of sound meters to document and defend a noise violation would be very difficult. The amount of time an enforcement officer would have to spend documenting such claims would also be labor intensive.

As an alternative staff has done some research on how other towns have dealt with such "nuisances." Some of these findings are attached to this report.

Connecticut State Statutes: Sec. 7-148 (Scope of Municipal Powers) not only allows for such ordinance but even defines how a municipality might draft one: (E) Nuisance. Define, prohibit and abate within the municipality all nuisances and causes thereof, and all things detrimental to the health, morals, safety, convenience and welfare of its inhabitants and cause the abatement of any nuisance at the expense of the owner or owners of the premises on which such nuisance exists;

The concept of introducing a "nuisance" ordinance would allow the Town and enforcement officers to address other types of "nuisances" aside from noise alone.

Model examples of such nuisance ordinances are attached for discussion purposes.

**ALTERNATIVE ACTIONS**

None requested at this time

**FISCAL IMPACT**

EH: Clerks Office

AGENDA ITEM: \_\_\_\_\_

*60A*

## O'Keefe, Jeff

---

**From:** Carey, James  
**Sent:** Thursday, January 28, 2010 11:32 AM  
**To:** O'Keefe, Jeff  
**Subject:** CT Statutes re. nuisance

Jeff,  
This looks the statutory authority we were talking about.  
Jim

Sec. 7-148. Scope of municipal powers. (a) Definitions. Whenever used in this section, "municipality" means any town, city or borough, consolidated town and city or consolidated town and borough.

(b) Ordinances. Powers granted to any municipality under the general statutes or by any charter or special act, unless the charter or special act provides to the contrary, shall be exercised by ordinance when the exercise of such powers has the effect of:

(E) Nuisance. Define, prohibit and abate within the municipality all nuisances and causes thereof, and all things detrimental to the health, morals, safety, convenience and welfare of its inhabitants and cause the abatement of any nuisance at the expense of the owner or owners of the premises on which such nuisance exists;



## Key Points of the Public Nuisance Ordinance

### 1. **Purpose**

To remedy chronic problems at properties where City Code violations occur that annoy or disturb others. To hold property owners accountable for the use of their properties.

### 2. **Definition of "Public Nuisance"**

Three or more separate City Code violations at the same property within 12 months or 5 or more within 24 months. Written notice must have been sent to the property owner and tenants within 30 days of each violation, except the last one. The last violation must have occurred at least 45 days after the last notice. Each complaint about a separate violation must result in the issuance of a municipal court citation.

### 3. **Commencement of Nuisance Action**

Another notice must be posted at the property and mailed to the property owner at least 10 days before filing the action. After that ten-day period, the City may then file the action in municipal court and serve the summons and complaint on any person(s) that the City believes is responsible for the nuisance.

### 4. **Voluntary Agreement**

At any time after a notice has been sent out, a property owner can enter into a voluntary abatement plan with the City. If the property owner and the City reach such an agreement and the property owner does what he or she has agreed to do, no public nuisance action will be filed. Even without an agreement, a notice of violation will be stricken (not counted) if a landlord goes to court to evict a tenant that has caused the problem and does everything reasonably possible to avoid more of the same kinds of problems.

### 5. **City's Remedies**

If no voluntary abatement agreement is reached, the City can ask the Municipal Court to order the parties causing the nuisance to do whatever is necessary to put an end to the nuisance. Only in an emergency can the City get such an order without a court hearing. If the City gets such an order, the persons affected by the order can ask the Court to remove it at any time. At no time can the City seek or obtain a court order that would take away or close the property or place the property into "special receivership". A person who knowingly disobeys an abatement order issued by the court could be prosecuted for committing a misdemeanor criminal offense.

### 6. **Effect of Sale of the Property**

All previous notices of violations will be stricken (will not count) if the property is sold unless the property is sold simply to avoid the public nuisance ordinance.



## **§5-3 PUBLIC NUISANCE**

§5-3-1	PURPOSES
§5-3-2	DEFINITIONS
§5-3-3	ILLUSTRATIVE EXAMPLES OF NUISANCES
§5-3-4	NUISANCE PROHIBITED
§5-3-5	NOTICE TO ABATE
§5-3-6	CONTENTS OF NOTICE
§5-3-7	PROVISIONS FOR SPECIFIC NUISANCES

### ***[See Commentary]***

#### **§5-3-1 PURPOSES**

It is important for a community to appear clean, well kept, and generally clear of public nuisances, eyesores, and unhealthy conditions. The appearance of a community weighs heavily in the decisions of prospective residents and businesses in locating to a particular area. A clean, safe, and well-kept community can stabilize or increase property values, provide a healthy environment, and make citizens proud of the area in which they live. Accordingly, a community needs a set of regulations to keep the area clean, remove unsightly conditions, and prevent unhealthy and unsafe situations from occurring. It is therefore the purpose and intent of this Ordinance to encourage a clean, healthy, and satisfying environment; one free of nuisances, eyesores, and unhealthy, unsafe, or devaluating conditions. To this end, this Ordinance seeks to regulate and protect the health, safety, welfare, values, and aesthetics of properties.

#### **§5-3-2 DEFINITIONS**

For the purposes of this Ordinance, the following words are defined:

Abandoned vehicle: A vehicle, including cars, trucks, trailers, boats, motorcycles, recreational vehicles, mobile homes, manufactured homes, or any other similar vehicle, that meets one or more of the following conditions:

- (a) Has been left unattended upon a highway, street, or alley or other public property outside a designated parking space for a period of 48 hours; and/or,
- (b) Is within public view and is inoperable, partially or wholly dismantled, wrecked, junked, discarded, or of similar condition, or any vehicle without a current license plate if required by law, and is located outside of an enclosed building, garage, carport, wrecked motor vehicle compound, or other place of business designated and lawfully used for the storage of such inoperable vehicles, for a period exceeding 30 days.

Nuisance: Anything that causes hurt, inconvenience, or damage to another, and the fact that the act done may otherwise be lawful, shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person.

§5-3-3      ILLUSTRATIVE EXAMPLES OF NUISANCES

The following conditions, whether on occupied or unoccupied lands, public or private property, are hereby declared to be and constitute a public nuisance and shall be abated; although this section shall not be construed to be limiting with regard to its enumeration of public nuisances.

- (a) Weeds or grass allowed to grow to a height greater than 12 inches on the average, or any accumulation of dead weeds, grass, or brush, that may provide safe harborage for rats, mice, snakes and/or other vermin.
- (b) Vegetation that obstructs the safe passage or line-of-sight of motorists or pedestrians at an intersection or driveway connection with a public or private street or alley, or along any street or sidewalk.
- (c) Dead or dying trees or other vegetation which may cause a hazardous situation if they fall.
- (d) Accumulation of rubbish, trash, refuse, junk, construction debris, and other abandoned materials, metals, lumber, or other such items.
- (e) The keeping or maintenance of one or more abandoned vehicles in public view or in a manner inconsistent with this Resolution [Ordinance].
- (f) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (g) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a fire hazard.
- (h) All noises which may annoy or inhibit others in their enjoyment of the use of their property.
- (i) All disagreeable or obnoxious odors or stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches, including smoke and fires.
- (j) The pollution of any public well, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes, agricultural wastes, industrial wastes, or other substances.
- (k) Any building, structure, or other place or location where any activity is conducted, performed or maintained in violation of local, state, or federal law.
- (l) Any accumulation of stagnant water.
- (m) Any method of human excretion disposal which does not conform to the provisions of local ordinances, or state or federal law.

§5-3-4      NUISANCE PROHIBITED

It shall be unlawful for any person, firm, corporation or other entity to cause, permit, maintain, or allow the creation or maintenance of a nuisance, as defined or more specifically described in this Ordinance.

§5-3-5      NOTICE TO ABATE

Whenever a nuisance is found to exist within the jurisdiction of the County [City], the Land Use Officer shall give written notice to the owner or occupant of the property upon which such a nuisance exists or upon the person causing or maintaining the nuisance, to abate the nuisance.



§5-3-6      CONTENTS OF NOTICE

The notice to abate a nuisance issued under the provisions of this Resolution [Ordinance] shall contain the following:

- (a) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances;
- (b) The location of the nuisance, if the nuisance is stationary;
- (c) A description of what constitutes the nuisance;
- (d) A statement of acts necessary to abate the nuisance; and,
- (e) A statement that if the nuisance is not abated as directed, the County will file an action in Magistrate Court [City will file an action in Municipal Court] to abate the nuisance.

***[See Commentary]***

§5-3-7      PROVISIONS FOR SPECIFIC NUISANCES

§5-3-7.1 Animals. No domestic animals shall be permitted to run at large within the County [City] limits. It shall be unlawful for any domestic animal to be running at large on the streets or sidewalks of the County [City], unless said domestic pet is under the control of a leash, collar, or chain. It shall be the responsibility of the owner of any domestic animal to provide a proper enclosure or structure secured from the ground to a sufficient height so that the animal cannot escape enclosure. Structures for horses, cows, or other livestock shall not be located closer than 100 feet of any property line. All animal enclosures or yards shall at all times be kept in a clean condition to prevent any condition detrimental to the public health of the County [City]. No more than one horse, cow, or other type of livestock shall be kept per acre of land. No person shall deposit or cause to be deposited, the carcass of any dead animal in the streets, roads, alleys, woods, or waters within the County [City] limits.

§5-3-7.2 Abandoned Vehicles. It shall be unlawful to keep or maintain an abandoned vehicle as defined by this Ordinance, and any abandoned vehicle is hereby declared to be a public nuisance and shall be abated as provided in this Ordinance.

§5-3-7.3 Trees and Other Vegetation. It shall be unlawful for the owner or occupant of any lot or land lying and abutting on an intersection of two streets or the intersection of a driveway and a street to allow any trees, shrubs, or bushes lying on said lot or land to grow to a height or in a manner which restricts the line of sight, or which threatens safety or restricts passage of motorists or pedestrians within a public right-of-way or sidewalk.

§5-3-7.4 Noise. It shall be unlawful for any person to create or assist in creating, permit, or continue any unreasonably loud, disturbing, or unnecessary noise in the County [City]. Noise of such character, intensity, and duration that is detrimental to the reasonable comfort, health, or life of any individual is prohibited. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises that constitute a public nuisance in violation of this Ordinance, and which shall be abated.

- (a) The keeping or maintenance of any domestic animal which, due to prolonged or habitual barking, howling, whining, or other noises, causes annoyance to neighboring residents, or interferes with the reasonable use and enjoyment of the premises occupied by such residents, is hereby declared to be a public nuisance and shall be abated as provided in this Ordinance.

- (b) The sounding of any bell, horn, whistle, mechanical device operated by compressed air, or signal device while not in motion, except as a danger signal, for an unnecessary and unreasonable period of time.
- (c) The use of any siren, other than police, fire, or emergency vehicle.
- (d) The use or operation of any musical instrument, radio, loud speaker, or sound amplifying device so loudly as to disturb persons in the vicinity thereof.
- (e) The erection, excavation, demolition, alteration, or repair of any building or structure in the vicinity of residential dwellings between the hours of 10:00 p.m. and 7:00 a.m., except in the case of urgent necessity in the interest of public safety, and then, only with a permit from the Land Use Officer.
- (f) The creation of excessive noise on any street adjacent to any school, institution of learning, court, or religious congregation while the same are in session, or within 150 feet of a hospital which unreasonably interferes with the working of such institution.
- (g) The shouting or crying of peddlers, vendors, or residents which disturbs the peace and quiet of a residential area.
- (h) The unnecessary creation of loud or excessive noise in connection with unloading or loading vehicles or merchandise.
- (i) The use of any vehicle that is in a state of disrepair as to create loud or unnecessary grinding, rattling, backfiring, or other noise.

Any one of these enumerated nuisances, if violated, would be a misdemeanor and could be prosecuted in the local court just as the violation of any other ordinances.

***[See Commentary]***

***[See References]***



GRASS LAKE CHARTER TOWNSHIP  
POLICE POWER ORDINANCE

PAGE 1

Anti-Noise and Public Nuisance Ordinance:						Length: 5 Pages			
Reviewed									
Revised	*10/05								

\*denotes date of origin

**Purpose of Ordinance:**

An ordinance to secure the public health, safety and general welfare of the residents and property owners of Grass Lake Charter Township, Jackson County, Michigan, by the regulation of noise within said Township.

**I. Title of Ordinance:**

This ordinance shall be known and cited as the Grass Lake Charter Township Anti-Noise and Public Nuisance Ordinance.

**II. Unlawful acts: public nuisances**

It shall be unlawful and it shall be deemed a public nuisance for any person to unreasonably make, continue, or cause to be made or continue any noise that annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities, or that injures or endangers the health, peace or safety of the public within the township. The following acts, among others, are declared to be unlawful noise violations:

- A. *Radios, CD players and musical instruments.* Operating, playing or permitting the operation or playing of any radio, CD player, television set, amplified or un-amplified musical instrument, drum, loudspeaker, tape recorder, or other sound-producing device, in such a manner or with such volume at any time or place so as to annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in any office, dwelling, or residence. The operation of any such set, instrument, CD player, machine, or device in such a manner as to be plainly and clearly audible on real property or in a dwelling unit other than that from which the noise originates or emanates shall be evidence of a violation of this ordinance.
- B. *Shouting and whistling.* Yelling, shouting, hooting, whistling, singing, or making any other loud noises on the public streets, sidewalks, bike pathways, or other streets or paths located within the township between the hours of 11:00pm and 7:00am the following day, or the making of any such noise at any time or place so as to annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in any office, dwelling, or residence.
- C. *Construction.* Operating or permitting the operation of any tools or equipment used in the construction, excavation, demolition, alteration or repair or any building, street or highway between the hours of 9:00pm and 6:00am the following day, Monday through Saturday, and in between the hours of 9:00pm Saturday and 8:00am the following Sunday, such that the sound there from is plainly audible in any dwelling, office, or residence, or on any residential property



other than the property from which the noise emanates or originates, unless a variance therefore is first obtained from the township supervisor.

- D. *Engines.* Operating or permitting the operation of any steam engine or internal combustion engine, whether stationary or mobile, so as to annoy or disturb the quiet, comfort or repose of a person of normal sensitivities in any office, dwelling or residence. This shall not prohibit the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar device used outdoors in residential areas, between the hours of 7:00am and 9:00pm the same day, nor shall it prohibit the operation of snow removal equipment at any time necessary. This shall not prohibit the operation of a farm implement or state licensed motor vehicle in a manner expressly permitted by state law.
- E. The emission or creation of any excessive noise which unreasonably interferes with the operations of any school or church is not permitted.
- F. The keeping of any animal, bird or fowl, which emanates frequent or extended noise which shall unreasonably disturb the quiet, comfort or repose of any person in the vicinity; such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property is not permitted.
- G. The erection, excavation, demolition, alteration or repair of any building or premises in any part of Grass Lake Charter Township, and including the streets and highways, in such a manner as to emanate noise or disturbance unreasonably annoying to other people, other than between the hours of 7:00am and sundown on any day, except in cases of urgent necessity in the interest of public health and safety. In such case, a permit shall be obtained from the Building Inspector or Ordinance Enforcement Officer of the Township, which permit shall limit the periods that the activity may continue.
- H. The operation of any loudspeaker or other sound amplifying device upon any vehicle on the streets of the Township with the purpose of advertising, where such vehicle, speaker or sound amplifying equipment emits loud and raucous noises easily heard from nearby adjoining residential property.
- I. The operation of any machinery, equipment or mechanical device so as to emit unreasonably loud noise which is disturbing to the quiet, comfort or repose of any person.

III. **"Person" defined.**

In addition to its normal meaning, the term "person," as used in this ordinance, means a person who causes or makes an unlawful noise, or a person who is in control of property or premises from which an unlawful noise originates or emanates.

**IV. Exceptions for Emergency**

The provision of this ordinance shall not apply to the emission of sound for the purpose of alerting persons of the existence of an emergency or the emission of sound in the performance of emergency work.

**V. Variance to permit noise during prohibited hours**

The township supervisor may grant an application of variance of this ordinance to permit construction noises and outdoor events during hours otherwise prohibited under this ordinance, after notice and hearing upon a showing that compliance with this ordinance would constitute an unreasonable hardship on the applicant, community or other persons.

**VI. Abatement of public nuisance**

The township supervisor may act to abate a public nuisance, as provided by law, without giving notice if the public health, safety or welfare requires immediate action. The cost of abating such nuisance shall be charged to the person found to be in violation of this ordinance.

**VII. Exceptions**

None of the prohibitions hereinbefore enumerated shall apply to the following:

- A. Any police vehicle, ambulance, fire engine, or emergency vehicle while engaging in necessary emergency activities.
- B. Excavation or repair of bridges, streets or highways or other property by or on behalf of the State of Michigan, Grass Lake Charter Township, or the County of Jackson, between sundown and 7:00am when the public welfare, safety and convenience render it impossible to perform such work during other hours.
- C. Normal operation of equipment for farming or construction.

**Note:** The Michigan legislature passed into law the Michigan Right to Farm Act (Act 93 of 1981) which requires the establishment of Generally Accepted Agricultural and Management Practices (GAAMPs). To learn more you can log on to the GAAMPs website at <http://www.michigan.gov/mda> click on "Farming," then "Environment," and then click "GAAMPs" to access.

**VIII. Public Nuisance Regulations**

No person, firm or corporation shall create, cause or maintain any public nuisance within the Township. The word "Nuisance" as used in this ordinance means any act or acts or omission to act on the part of any person which creates or permits the existence of a situation which annoys, injures or endangers the peace, welfare, order, health or safety of the public in their persons or property. As defined herein, a nuisance includes, but is not limited to, conditions which render persons insecure in life or in the use and enjoyment of their property, such as effects and emanations from noise, glare, lights, vibration, dust, smoke, odor, gas, steam, fly-ash, soot, acids, chemicals, fumes, cinders, worms, insects, rodents, flies, decaying matter,



whether such effects and emanations are natural or result from human or mechanical alteration or manipulation of materials. A nuisance also includes residue or leaching from deposits of matter which seep into water on the surface or in the ground thereby making it unfit or unpalatable for human consumption, or for use by domestic animals. A nuisance includes a condition which is indecent, obnoxious, or offensive to the senses.

**Note:** The Michigan legislature passed into law the Michigan Right to Farm Act (Act 93 of 1981) which requires the establishment of Generally Accepted Agricultural and Management Practices (GAAMPs). To learn more you can log on to the GAAMPs website at <http://www.michigan.gov/mda> click on "Farming," then "Environment," and then click "GAAMPs" to access.

**IX. Severability**

If any section, subdivision sentence, regulation, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining sections, subdivision, sentences, regulation, clauses and phrases of this ordinance or the regulation as an entirety.

**X. Penalties and Civil Fines/Cost**

Any person, firm or corporation found violating the provisions of this Ordinance, is responsible for a Municipal Civil Infraction as defined by Michigan law and subject to a civil fine determined in accordance with the following schedule: Each day that a violation shall continue, it constitutes a separate offense. The fine starts the day after the deadline date stated on the notice. Checks for fines shall be made payable to Grass Lake Charter Township.

First Violation within a 3-year period*	\$50.00/per day
Second violation within a 3-year period*	\$100.00/per day
Third violation within a 3-year period*	\$200.00/per day
Fourth or subsequent violation within a 3-year period..	\$400.00/per day

*(\*determined on the basis of the date of the violation(s))*

Additionally, the violator shall pay costs, which may include all direct or indirect expenses to which the township has been put in connection with the violation. In no case, however, shall costs of less than \$9.00 or more than \$500.00 be ordered. A violator of this ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.

**XI. Supercedes**

This Ordinance shall supercede Grass Lake Township Ordinance No 77-1.

**XII. Effective Date**

This Ordinance shall take effect immediately upon publication or posting as required by law following adoption by the Township Board. Adoptive Date 10-11-2005.

Marjorie A. Clark  
Grass Lake Charter Township, Clerk  
ldp



**VILLAGE OF YELLOW SPRINGS, OHIO  
ORDINANCE #2006-12**

**AN ORDINANCE ESTABLISHING CHAPTER 1472 PUBLIC DISTURBANCE NOISE**

**Whereas**, the Village Council seeks to reduce the cost and staff time needed to respond to noise complaints from Village residents by using a reasonable person standard, among other means, and

**Whereas**, the Village Manager and Village Solicitor have reviewed the body of case law using a reasonable person standard and have determined that there is a sufficient likelihood of successful prosecution using this standard based on past precedents.

**NOW, THEREFORE, THE COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO HEREBY ORDAINS THAT:**

**Section 1.** Chapter 1472 is established and adopted by reference to Exhibit A.

**Section 2.** Chapter 1472 shall become effective at the earliest period allowed by law.

\_\_\_\_\_  
Jocelyn Hardman, President of Council

Passed: May 1, 2006

Attest: \_\_\_\_\_  
Deborah Benning, Clerk

ROLL CALL:

Hardman \_\_\_Y\_\_\_

Wintrow \_\_\_Y\_\_\_

Rickenbach \_\_\_Y\_\_\_

Hempfling \_\_\_Y\_\_\_

Chase \_\_\_Y\_\_\_

CHAPTER 1472  
Public Disturbance Noise

1472.01 General Prohibition. No person shall cause a sound that is a public disturbance noise, and no person in possession of property shall allow to originate from the property, sound that is a public disturbance noise.

1472.02 Definition. For purposes of this chapter, a “public disturbance noise” is any noise which, in the judgment of person of ordinary sensibilities, is unreasonably loud so as to disturb or interfere with the peace and comfort of owners or possessors of real property.

1472.03 Illustrative Enumeration. The following sounds may, depending upon location, duration, intensity or character, be public disturbance noises in violation of this chapter:

(a) The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;

(b) The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within a residential district;

(c) Yelling, shouting, whistling or singing on or near the public streets, particularly between the hours of 10:00 p.m. and 8:00 a.m.;

(d) The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, or dwelling unit, or from any part of the property on which such building, structure or dwelling unit is located, such as sounds from musical instruments, audio sound systems, band sessions or social gatherings;

(e) Sound from motor vehicle audio sound systems, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than 50 feet from the vehicle itself;

(f) Sound from portable audio equipment, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than 50 feet from the source, and if not operated upon the property of the operator;

(g) The squealing, screeching or other such sounds from motor vehicle tires in contact with the ground or other roadway surface because of rapid acceleration, braking or excessive speed around corners or because of such other reason; provided, that sounds which result from actions which are necessary to avoid danger shall be exempt from this section;

(h) Sounds originating from construction sites, including but not limited to sounds from construction equipment, power tools and hammering between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and 10:00 p.m. and 9:00 a.m. on weekends;



(i) Sounds originating from residential property relating to temporary projects for the maintenance or repair of dwelling units, grounds and appurtenances, including but not limited to sounds from lawnmowers, power hand tools, snow removal equipment and composters between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and 10:00 p.m. and 9:00 a.m. on weekends.

1472.04 Exclusion. This chapter shall not apply to the following:

(a) Regularly scheduled events at parks, such as public address systems for baseball games or park concerts between the hours of 9:00 a.m. and 10:30 p.m.;

(b) Construction or maintenance activities in the city's right-of-way that have been conditioned by the Village Manager or designee to minimize the impact on adjacent property owners;

(c) Construction noise under subsection 1472.03(h) of this section or other noise generated in response to emergency situations (being occasions when unexpected and uncontrollable events result in an imminent risk of physical harm or property damage).

1472.05 Enforcement.

The Village Manager, or his or her designee, shall have the duty and responsibility of carrying out and enforcing the provisions of this chapter.

1472.06 Violation – Penalty.

Any person who violates the provisions of this chapter shall be guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

1472.07 Injunctive Relief.

In addition to the penalties provided in this chapter, injunctive relief for enforcement of the provisions of this chapter may be sought by the Solicitor after authorization by Council.

1472.08 Severability

If any provision of this chapter is held to be unconstitutional, preempted by federal law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

1472.09 Conflict.

No provision of this chapter shall be construed to impair or limit the ability of the Village to enforce provisions of Chapter 634 of the Codified Ordinances, it being determined by the Village that the provisions of Chapter 634 and this chapter shall co-exist and be independently or conjunctively enforced in the discretion of the Village Manager.



Search	Town of West Hartford, CT	Index
Standard View	CHAPTER 177. ZONING	New Laws
§ 177-37.1. Hours of operation.	ARTICLE IV. General Regulations	

*This electronic version is provided for informational purposes only. For the official version please contact the municipality.*

§ 177-37.2. Outdoor dining.

**[Added 3-28-2006; amended 5-13-2008]**

Outdoor dining areas that are accessory to restaurants can help to establish a vibrant, unique and friendly streetscape which benefit the entire surrounding area. Outdoor dining is an asset to the Town to the extent that it adds life and color to the streetscape and encourages pedestrian activity. Central to this benefit is the open-air nature of the dining areas, which must be both visible from, and physically proximate to, public pedestrian areas. That same proximity and visibility, however, dictates that the design of the outdoor dining area, including its furniture, should complement the design of the restaurant to which it is associated and contribute to the attractiveness of the streetscape. Diversity in the design of the furniture and outdoor dining areas is encouraged, therefore, provided that they complement the overall streetscape. Finally, while the operation of outdoor dining areas should contribute to the liveliness of the streetscape, they must not be allowed to create a nuisance, either by loud music, unruly customers, or disorderly premises. Where outdoor dining areas will further these goals without unduly impacting upon adjoining businesses or residential neighborhoods, they may be permitted as an accessory use on the premises of an existing restaurant, which premises shall be construed to include the street right-of-way adjacent to the property upon which such a restaurant is located, subject to the following requirements:

A. Space definition/location.

(1) Outdoor dining areas shall be identified by a barrier, such as fencing or planters, in order to define their boundaries. Barriers that preserve the open appearance of outdoor dining areas should be used whenever possible. The use of permanent structural walls or any vertical screening device of more than four feet in height to define the boundaries of outdoor dining areas is discouraged but may be approved where necessary to attenuate noise reaching residential neighborhoods or in other unique circumstances. Notwithstanding the foregoing, when an outdoor dining area is located on property adjoining a residential district, it shall be subject to a minimum setback of 15 feet from that district and, at a minimum, to Type B screening and/or a screening fence which separates it from that district. Editor's Note: See § 177-34, Screening and landscaping.

(2) Where outdoor dining areas abut the public street, no permanent structure shall be erected between the building that houses the restaurant and the abutting street except a retractable awning located at least seven feet above the ground. In all other locations, permanent structures may be used to provide shade or shelter from inclement weather. In such cases, structures that preserve an open appearance should be used to the extent possible.

(3) Fire hydrants and fire hose couplings and/or connections on buildings shall not be obstructed. Underground utility facilities such as cabinets or vaults shall be identified on all plans and arrangements shall be made to ensure continued access to utility providers for maintenance of any such facilities.

(4) If alcoholic beverages are to be served at the outdoor dining area, the enclosure of the outdoor dining area must also meet the requirements (if any) of any agency having jurisdiction over the service of such beverages.



(5) When an outdoor dining area is located adjacent to a public pedestrian walkway, it shall be maintained flush with said walkway.

#### B. Operations.

(1) Outdoor dining areas shall be capable of accommodating disabled patrons.

(2) Pass-through or take-out windows are prohibited. Any door used to deliver food from the restaurant to an accessory outdoor dining area shall be self-closing, unless an alternative mechanism is approved by the Bloomfield-West Hartford Health District.

(3) Any applicant seeking approval of an outdoor dining area shall provide the Plan and Zoning Commission with written assurance from the Bloomfield-West Hartford Health District that:

(a) The kitchen facilities in the restaurant are adequate to service the entire restaurant, including the outdoor dining area. Cooking shall not be permitted outside the restaurant.

(b) Any outdoor service areas, including storage areas for both clean and dirty plates and utensils, condiments, drinking water and similar supplies, are appropriately protected.

(c) Refuse receptacles appropriate to the use shall be provided for patrons and/or wait staff.

(4) No heaters may be installed or used without the prior approval of the Plan and Zoning Commission. If an applicant seeking approval of an outdoor dining area proposes to provide any source of heat for the benefit of patrons, it shall so state in its application and shall provide the Plan and Zoning Commission with a plan, approved by the Fire Marshal, for the placement and operation of said heaters as well as for the storage of fuel used by said heaters.

(5) Public address systems or other systems intended to convey verbal messages through the use of amplified sound shall be prohibited. If an applicant seeking approval of an outdoor dining area proposes to provide any form of music for the benefit of patrons, it shall so state in its application and shall provide the Plan and Zoning Commission with specific details regarding the manner in which music to be provided. The Plan and Zoning Commission may impose any restrictions upon the playing of music which it deems to be appropriate given the location of the proposed outdoor dining area or any other circumstances that the Commission deems to be relevant.

(6) Restaurant management shall ensure that the patrons of the outdoor dining area do not disturb persons beyond the premises of the restaurant through loud, boisterous or unreasonable noise, offensive words or disruptive behavior. Patrons must be seated at tables. Bar service, whether patrons are standing or seated at stools, is not permitted. The service of alcoholic beverages must be adjunct to the service of food.

(7) No patrons shall be seated between the hours of 10:00 p.m. and 7:00 a.m.

(8) Animals shall not be permitted within outdoor dining areas, except for service animals.

(9) Lighting shall be limited to that level which is necessary to illuminate the outdoor dining area for patrons and staff. Flashing/blinking lights shall be prohibited.

#### C. Maintenance.

(1) During the season when the outdoor dining area is in operation, it shall be kept clear of litter, food scraps or soiled dishes and utensils at all times. The entire floor/sidewalk surface in and around the outdoor dining area shall be swept as necessary, but not less frequently than daily, and cleaned to remove greases, oils and stains by steam cleaning or a similar process on a monthly basis. Spilled materials shall be cleaned promptly. Sweeping debris or spilled materials into the gutters of public streets shall be prohibited. This requirement shall also apply to any areas beyond the outdoor dining area which are traversed by restaurant staff and/or patrons.

(2) Trash receptacles shall be emptied whenever full and shall be emptied at the end of each business day.



(3) Umbrellas may be used to shade tables, provided that the drip edge thereof is located at least seven feet above the ground and further provided that they shall not be used to advertise the restaurant or any other product or service.

(4) Tables, chairs and umbrellas shall be of durable commercial-grade materials, sufficiently weighted to avoid displacement by wind.

(5) Where outdoor dining areas abut the public street, all furniture, fencing, shrubbery and other fixtures associated with outdoor dining areas shall be removed and stored indoors during months when the outdoor dining area is not in use. No permanent structures shall be permitted to remain between the building that houses the restaurant and the abutting street except retractable awnings located at least seven feet above the ground. In all other locations, a storage plan for all furniture, fencing, shrubbery and other fixtures associated with the outdoor dining area shall be submitted for review and approval by the Plan and Zoning Commission.

<a href="#">[Prev]</a>	<a href="#">[Up]</a>	
<a href="#">Search</a>	<a href="#">[Contents]</a>	<a href="#">Index</a>
<a href="#">x</a>		
<a href="#">Terms of Service</a>	<a href="#">F.A.Q.</a>	<a href="#">Privacy Policy</a>

Font size: [Smaller](#) [Bigger](#)

# TOWN OF EAST HAMPTON AGENDA REPORT

Town Manager Approval: \_\_\_\_\_



Item to be presented by: Frank Grzyb  
Facilities Manager

DATE: February 9, 2010

SUBJECT: ARCHITECTURAL/ENGINEERING SERVICES for an  
Addition/Renovations/Modifications to the East Hampton Senior Center

DEPARTMENT: Facilities

---

## RECOMMENDED ACTION

Move to approve the Contract with J Associates Architects for the above-referenced project.

## BACKGROUND

The Senior Center Building Committee selected J Associates Architects out of 13 RFPs. J Associates Architects is the low bidder.

## ALTERNATIVE ACTIONS

Other direction as determined by the Town Council.

## FISCAL IMPACT

The \$26,800 fee is funded by a grant from the Connecticut Department of Economic and Community Development. The contract amount is within the budget for architectural/engineering services.



# BID RESULTS--12/22/09

## PROJECT #12309SR-arch ARCHITECTURAL/ENGINEERING SERVICES FOR AN ADDITION, RENOVATIONS, & MODIFICATIONS TO THE Senior Center @ 105 Main Street, East Hampton, CT

COMPANY:	PHASE 1:	PHASE 2:	PHASE 3:	TOTAL:	Additional COSTS:	NOTES:
	Amount /Time Period	Amount /Time Period	Amount /Time Period			
J Associates Architects J. Victorick	6,500 3 wks	14,300 5 wks	75/hr 6,000 20 wks	26,800	-hourly rates average -reimb expenses: printing +10% -recommends test borings 3,500	-small firm, 25 mi (Newington) -start in 1 wk -some Sr Ctrs -will attend P&Z mtgs for approval -additional cost if P&Z requires storm drainage calc & site dev plan
Rose-Tiso & Co., LLC Patrick Rose	2,500 4 wks	24,000 8 wks	75/hr 5,000	31,500	-reimb-cost +10% -reimb add on	-large full svc firm -50 mi travel (Fairfield); longer travel time decreases site time since we pay hourly rate portal to portal
Hibbard & Rosa Architects Carmelo Rosa	11,000 6 wks	17,000 6 wks (incl bidding)	6,500	34,500	-hrly rates-moderate (mid range to low) -average hourly rates -reimb: printing only +10% -deduct \$1,000 for civil eng if P&Z doesn't require storm drainage calc & site dev plan	-Middletown -limited mtgs in proposal will increase our cost -other restrictions in their proposal that could cost us additional fees -tentative sched attached -mobilize in 1 week -princ will run project -Fairington ofc; principal in charge lives in E.Hampton -some Sr Ctrs
Associated Architects PC Robert Lohrmann	6,400 2 wks	20,900 4 wks	95/hr 8,200 16 wks	34,500		
Quisenberry Arcari Architects Sandy Collins	7,580 6 wks	22,740 6 wks & 4 wks (bid)	7,580 5-7 mos	37,900	-rates-OK (average)	-start about 10 days from notification
Silver/Petrucelli + Associates Shari Jutkowitz	7,100	20,700	78/hr 10,500	38,300	-standard hrly rate-high side -reimb-printing, models, etc.	-large firm -attached sched
Friar Associates Mike Sorano	7,000 7 wks	28,500 6 wks	400/wk 9,600 24-36 wks	45,100	-fixed fee incl consultants & 1,000 in printing costs -no travel, telephone, or mailing costs	
Jacunski Humes Architects, LLC W. Albert Jacunski	11,000 4,000 3 wks	24,200 9 wks	8,800 10 mos	48,000	-no extra reimb-fixed fee	-start immediately -principal involved
TLB Architecture, llc Pamela J. Crum; Timothy Brewer	11,000 6 wks	30,000 8 wks	130/hr 13,000	54,000	-reimb not mentioned	-high-end design
Archichord Seung Hyeon Park	15,000 4-5 wks	36,000 6-8 wks	150/hr 9,000	60,000	-reimb (incl admin fee) cost +15% -hrly rates-high side	
Preiss/Breimeister PC Patricia K. Gill	16,000 4 wks	34,500	90/hr 600/day 13,000	63,500	-reimb-cost +10%	-start in 1 week
George McGoldrick, AIA	9,100	18,500	125/hr 600/day	no total	-reimb not mentioned	-start in 2 weeks
Hubbard & Assoc. Architects Janet Hubbard --only rec'd 1 copy	17,600 Jan-May	25,400 Jun-Aug Sep bid	110/hr Oct-Dec	no total	-reimb not mentioned	-not a lot of effort on proposal -small firm



**Nancy Hasselman, CCMC  
Collector of Revenue  
Town of East Hampton**

February 5, 2010

To: The East Hampton Town Council

Please find copies of tax refunds for your review. The total refunds equal \$5,913.88.

Thank you for your assistance.

*Nancy Hasselman, CCMC*

Nancy Hasselman, CCMC  
Collector of Revenue

0 • 0

12 • 00	+
4 • 26	+
2,411 • 09	+
3,476 • 53	+
10 • 00	+
5,913 • 88	*